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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JERRY J. VANEK and AROLYN
M. VANEK,

Civ. No. 09-1165-BR

Plaintiffs,

ORDER

v.

FIRST HORIZON LOAN CORPORATION,
METLIFE HOME LOANS, A DIVISION
OF METLIFE BANK, N.A., LAWYERS
TITLE INSURANCE CORPORATION,
AND DOES 1-5,

Defendants.

AIKEN, Chief Judge:

Before the court is plaintiffs' Motion for Temporary Restraining Order. Pursuant to Fed. R. Civ. P. 65(b) and upon review of the complaint, plaintiffs' motion, and supporting affidavit:

THE COURT FINDS that plaintiffs have raised serious questions

with respect to their claims and that the balance of hardship tips in their favor, in that plaintiffs allege that the loans secured by deeds of trust may have been obtained in violation of federal law, and that the foreclosure sale of plaintiffs' real property will result in the loss of their real property and inhibit plaintiffs' ability to sell the property to a potential buyer and discharge their loan obligations;

THE COURT FURTHER FINDS that plaintiffs may suffer irreparable harm from the foreclosure sale as currently scheduled for the reasons stated above; and

THE COURT FURTHER FINDS that the defendants cannot be heard or the underlying legal issues resolved before the foreclosure is scheduled to occur; and


THE COURT FURTHER FINDS that no security shall be required to support issuance of this order pursuant to Fed. R. Civ. P. 65(c), the court finding that no security is warranted in these circumstances.

Accordingly, IT IS HEREBY ORDERED that plaintiffs' Motion for Temporary Restraining Order is GRANTED. Pursuant to Federal Rule of Civil Procedure 65(d), defendants are hereby enjoined from proceeding with the foreclosure sale of plaintiffs' real property currently scheduled for October 2, 2009 at 10:00 a.m. This order shall expire ten days after the date of its entry, unless further extended by the court pursuant to Fed. R. Civ. P. 65(b)(2).

IT IS FURTHER ORDERED that this matter is referred to Judge Brown, the assigned judge, for hearing within ten days or as otherwise scheduled by Judge Brown on whether this restraining order should be continued during the pendency of this action as a preliminary injunction.

IT IS SO ORDERED.

Dated this 2 day of October, 2009.



Ann Aiken
Chief United States District Judge